



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

DEC 10 2019

UNITED PARCEL SERVICE

Mr. Keith Lavon
Thermacell Repellents, Inc.
26 Crosby Drive
Bedford, Massachusetts 01730

Re: Thermacell Repellents, Inc.
Notice of Warning for Distribution of a Misbranded Pesticide
Case File No. FIFRA-04-2020-0802

Dear Mr. Lavon:

The U.S. Environmental Protection Agency has obtained evidence indicating that Thermacell Repellents, Inc. appears to be in violation of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA). On or about March 5, 2019, Tiger (USA) Global Logistics, the licensed customs broker for Thermacell Repellents, Inc., submitted a Notice of Arrival of Pesticides and Devices (NOA) in the U.S. Customs and Border Protection (CBP) Automated Commercial Environment (ACE) system for the importation and shipment of 14,040 pesticide devices, each weighing 1.62 kilograms, of the pesticide product Thermacell Patio Shield (EPA Reg. No. 71910-2) with model number MR9W3-00, which arrived at the Port of Atlanta, Georgia under entry number MA7-02287289. This entry number was later cancelled and resubmitted under entry number MA7-02287446.

Upon review of a copy of the label that was uploaded into the ACE Document Image System and the entry documentation provided to the EPA by Thermacell Repellents, Inc. through the CBP's ACE system, the label did not fully match the pesticide's most current EPA-approved pesticide master label. Specifically, the heading 'Physical and Chemical Hazards' had not been prominently placed on the label with such conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use. Pursuant to Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136(j)(1)(E), it is unlawful for any person in any State to distribute or sell to any person any pesticide which is misbranded.

On or around March 20, 2019, Tiger (USA) Global Logistics, filed an NOA in the CPB ACE system for the importation of 438 units, 1.62 kilograms each, of the pesticide product Thermacell Patio Shield (EPA Reg. No. 71910-2) with model number MR9W3-00, which arrived at the Port of Atlanta, Georgia under entry number MA7-02287719. Upon review of a copy of the label that was uploaded into the ACE Document Image System and the entry documentation provided to the EPA by Thermacell Repellents, Inc. through the CBP's ACE system, the label appeared to be misbranded in the same manner as described above.

On April 8, 2019 and April 10, 2019, Thermacell was issued Advisory of Conditions for Release Letters for entry numbers MA7-02287719 and MA7-02287446 respectively. On or around April 15, 2019,

Thermacell submitted a letter agreeing to the conditions of the release for both shipments and submitted photographs certifying the original condition of the products. Therefore, on May 6, 2019, the EPA allowed Thermacell, via email, to proceed with relabeling the 14,478 misbranded products at Wepackit, Inc., located at 5425 Tulane Drive Southwest, Atlanta, Georgia [EPA Establishment number 89517-GA-2]. On May 15, 2019, Thermacell submitted photographs of the relabeled units and a letter from the company official certifying compliance. On May 22, 2019, Thermacell was issued a Shipment Release Letter, notifying the company that the 14,478 units appeared to be in compliance and could be distributed or sold.

Pursuant to Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136(j)(1)(E), it is unlawful for any person in any State to distribute or sell to any person any pesticide which is misbranded. In response to the apparent violation of FIFRA, the EPA is issuing this Notice of Warning (NOW) to Thermacell Repellents, Inc. pursuant to FIFRA Section 9(c)(3), 7 U.S.C. § 136g(c)(3). The EPA has determined at this time that a NOW is the appropriate enforcement response. Since the company has certified compliance for the above referenced violations, the EPA is closing this matter with no further response from you required.

Since your company may be classified as a small business, you may want to review the Information Sheet "U.S. EPA Small Business Resources," which can be found on the internet at: <https://www.epa.gov/sites/production/files/2017-06/documents/smallbusinessinfo.pdf>. This document will provide you with information regarding compliance and rights you may be entitled to under the Small Business Regulatory Enforcement Fairness Act.

If you have any questions about this letter, and/or would like to discuss the above-stated findings by the EPA, or would like a copy of the Information Sheet, please contact Kanoelehua Ho of the EPA Region 4 staff at (404) 562-9162.

Sincerely,



Larry L. Lamberth
Chief
Chemical Safety and Land Enforcement Branch

cc: Region 1

UPS CampusShip: View/Print Label

1. **Ensure there are no other shipping or tracking labels attached to your package.** Select the Print button on the print dialog box that appears. Note: If your browser does not support this function select Print from the File menu to print the label.
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UPS Access Point™
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ATLANTA ,GA 30303

UPS Access Point™
THE CLEAN DOG
448 RALPH MCGILL BLVD NE
ATLANTA ,GA 30312

FOLD HERE

LULA MIDDLEBROOK 404-562-8981 EPA-FINANCE 61 FORSYTH ST SW ATLANTA GA 30303	0.0 LBS LTR	1 OF 1
SHIP TO: MR. KEITH LAVON THERMACELL REPELLENTS, INC 26 CROSBY DRIVE BEDFORD MA 01730-1462		
	MA 018 9-02 	2
UPS 2ND DAY AIR TRACKING #: 1Z WR2 574 02 9591 1775		
		
BILLING: P/P		
Reference # 1: R4 MAILROOM		
CS 21.5-48 WNTNVS0 20.0A 10/2019		
		

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Customers without a Daily Pickup

Take your package to any location of The UPS Store®, UPS Access Point(TM) location, UPS Drop Box, UPS Customer Center, Staples® or Authorized Shipping Outlet near you. Items sent via UPS Return Services(SM) (including via Ground) are also accepted at Drop Boxes. To find the location nearest you, please visit the Resources area of CampusShip and select UPS Locations.

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LULA MIDDLEBROOK 404-562-8981 EPA-FINANCE 61 FORSYTH ST SW ATLANTA ,GA 30303	0.0 LBS LTR	1 OF 1
SHIP TO: SHARON HAYES EPA REGION 1 (NEW ENGLAND) MAIL CODE: OES05-4 5 POST OFFICE SQUARE BOSTON MA 02109-3901		
	MA 023 1-01 	2
UPS 2ND DAY AIR TRACKING #: 1Z WR2 574 02 9830 9199		
		
BILLING: P/P		
Reference # 1: R4 MAILROOM		
CS 21.5-48 WNTNVS0 20.0A 10/2019		

